

FIRST SUPPLEMENT TO THE  
AGREEMENT BETWEEN  
THE DEPARTMENT OF THE ARMY  
AND  
THE COMMONWEALTH OF PENNSYLVANIA  
FOR LOCAL COOPERATION ON THE  
CONSTRUCTION OF THE  
SHORELINE PROTECTION PROJECT  
AT  
PRESQUE ISLE PENINSULA, ERIE, PENNSYLVANIA

THIS SUPPLEMENT, entered into this 13<sup>th</sup> day of May  
1991, by and between the DEPARTMENT OF THE ARMY (hereinafter  
referred to as the "Government"), represented by the Assistant  
Secretary of the Army (Civil Works), acting through and by the  
Commander, North Central Division, and the COMMONWEALTH OF  
PENNSYLVANIA (hereinafter referred to as the "Local Sponsor"),  
acting through and by the Pennsylvania Department of  
Environmental Resources.

WITNESSETH THAT:

WHEREAS, by an agreement dated June 22, 1989, (hereinafter  
referred to as the "Original Agreement") the Government and the  
Local Sponsor shall cooperate in the construction of the  
Shoreline Protection Project at Presque Isle Peninsula, Erie,  
Pennsylvania, (hereinafter referred to as the "Project"); and

WHEREAS, by letter dated March 7, 1990, the Commonwealth of Pennsylvania, Governor's Office, Office of the Budget, requested that the Original Agreement be amended to permit the Local Sponsor to place its share of the Project costs in an Escrow Account; and

WHEREAS, the Government and the Local Sponsor desire to amend the Original Agreement;

NOW THEREFORE, the parties agree to amend the Original Agreement as follows:

1. ARTICLE VI - METHOD OF PAYMENT, Sections b.(3), b.(4), and c. pages 13 and 14 of the Original Agreement are deleted in their entirety and replaced with:

b. (3) For the second and subsequent fiscal years of the period of initial construction, the Government shall, 90 days prior to the beginning of the fiscal year, notify the Local Sponsor of the Local Sponsor's share of the total cost of initial construction for that fiscal year. No later than 30 days prior to the beginning of the fiscal year, the Local Sponsor shall make the necessary funds available to the Government by verifying to the satisfaction of the Government that it has deposited the requisite amount in an Escrow Account acceptable to the Government, with interest accruing to the Local Sponsor. As initial construction proceeds, the Government may adjust the amounts required to be provided by the Local Sponsor under this paragraph to reflect actual total costs of initial construction.

b. (4) If at any time during the second and subsequent fiscal years of the period of initial construction, the Government determines that additional funds will be needed from the Local Sponsor to meet its required share of the total cost of initial construction, the Government shall so notify the Local Sponsor, and the Local Sponsor, within 60 days from receipt of notice, shall make the necessary funds available through the funding mechanism specified in Article VI.b.(3) of this First Supplement to the Original Agreement.

c. The Government will draw on the Escrow Account provided by the Local Sponsor, such sums as the Government deems necessary to cover contractual and in-house fiscal obligations attributable to the Project as they are incurred, as well as project costs incurred by the Government prior to commencing the period of initial construction.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the Commander, North Central Division.

DEPARTMENT OF THE ARMY

By: Jude W. P. Patin  
Jude W. P. Patin  
Brigadier General, USA  
Commanding

PENNSYLVANIA DEPARTMENT OF  
ENVIRONMENTAL RESOURCES

By: Arthur A. Davis  
Arthur A. Davis  
Secretary  
Pennsylvania Department of  
Environmental Resources

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to legality and form: W. Wells

By: W. Wells  
Chief/Assistant Counsel, Pa. DER

Date: \_\_\_\_\_

THE PENNSYLVANIA DEPARTMENT OF  
GENERAL SERVICES

By: Thomas F. Bruis  
David L. Jannetta  
Secretary  
Pennsylvania Department of  
General Services

Date: \_\_\_\_\_

Approved as to legality and form:

By: H. Cards  
Chief/Assistant Counsel, Pa. DGS cc

Date: \_\_\_\_\_

By: Thomas Schroll  
D.G.S. Comptroller

Date: 4/26/91

By: \* Approved as to Memorandum  
dated March 6, 1991  
Office of Attorney General of  
the Commonwealth of  
Pennsylvania

Date: \_\_\_\_\_

CERTIFICATE OF AUTHORITY

I, K. Wells, do hereby certify that I am a representative of the Office of General Counsel, of the Commonwealth of Pennsylvania, and that the Pennsylvania Department of Environmental Resources is a legally constituted public body with full authority and legal capability to perform the terms of the First Supplement to the Agreement between the Department of the Army and the Commonwealth of Pennsylvania acting by and through the Pennsylvania Department of Environmental Resources in connection with the Presque Isle Peninsula Shoreline Protection Project at Erie, Pennsylvania, and that the person(s) who have executed the Agreement on behalf of the Pennsylvania Department of Environmental Resources have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this Certificate the date below written.

BY:

K. Wells WBC  
Chief/Assistant Counsel  
for the Office of General  
Counsel  
Commonwealth of Pennsylvania  
Department of Environmental  
Resources

DATE: \_\_\_\_\_